

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

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**SENATE BILL 823**  
**PROPOSED COMMITTEE SUBSTITUTE S823-PCS35384-MMa-12**

Short Title: Hurricane Florence/Supplemental Act.

(Public)

Sponsors:

Referred to:

November 27, 2018

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE ADDITIONAL DISASTER RELIEF IN RESPONSE TO  
HURRICANE FLORENCE.

The General Assembly of North Carolina enacts:

**PART I. APPROPRIATIONS/AVAILABILITY/ALLOCATIONS OF FUNDS FOR  
HURRICANE FLORENCE DISASTER RELIEF**

**SECTION 1.1.** The appropriations and allocations made in this act are for maximum amounts necessary to implement this act. Savings shall be effected where the total amounts appropriated or allocated are not required to implement this act.

**SECTION 1.2.** There is appropriated from the Hurricane Florence Disaster Recovery Fund the sum of two hundred ninety-nine million eight hundred thousand dollars (\$299,800,000) for the 2018-2019 fiscal year.

**SECTION 1.3.** The funds appropriated in Section 1.2 of this act in the Hurricane Florence Disaster Recovery Fund created in S.L. 2018-134 shall be allocated as follows:

- (1) Twenty-three million five hundred thousand dollars (\$23,500,000) to the Department of Public Instruction to be used to repair and renovate facilities of local school administrative units, laboratory schools, and innovative schools damaged by Hurricane Florence, and to repair or replace damaged furnishings and equipment of those facilities.
- (2) One million five hundred thousand dollars (\$1,500,000) to the Department of Public Instruction to be used to repair or replace food, food nutrition equipment, and food nutrition supplies damaged by Hurricane Florence in local school administrative units, laboratory schools, charter schools, and innovative schools participating in the National School Lunch Program or School Breakfast Program.
- (3) Two hundred forty million dollars (\$240,000,000) to the Department of Agriculture and Consumer Services, Hurricane Florence Agricultural Disaster Program of 2018, established in Section 5.11 of S.L. 2018-136, as amended by Section 2.5 of this act.
- (4) Five million dollars (\$5,000,000) to the Office of State Budget and Management for The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, to provide grants to eligible entities capable of making loans to small businesses affected by Hurricane Florence. These funds and funds received by Golden L.E.A.F. pursuant to S.L. 2018-136 shall not be subject to G.S. 143C-6-23(d).



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- (5) Ten million dollars (\$10,000,000) to the Department of Environmental Quality, Division of Marine Fisheries to be used for commercial fishing assistance.
- (6) Two hundred fifty thousand dollars (\$250,000) to the Department of Environmental Quality, Division of Coastal Management to be used for the nonfederal match to funding provided through the Emergency Watershed Protection (EWP) Program administered by the Natural Resources Conservation Service of the United States Department of Agriculture for the removal of marine debris deposited along the shorelines of state-owned lands. If the Division of Coastal Management does not receive EWP funding, this allocation shall be used as provided in Section 5.12 of S.L. 2018-136.
- (7) Fifty thousand dollars (\$50,000) to the Wildlife Resources Commission to conduct the study required in this act.
- (8) Eighteen million five hundred thousand dollars (\$18,500,000) to the Department of Environmental Quality for the Coastal Storm Damage Mitigation Fund. Notwithstanding G.S. 143-215.73M(c), funds allocated by this subdivision may be used to provide no more than fifty percent (50%) of the nonfederal share for a federally funded eligible project, and no more than fifty percent (50%) of the total cost of an eligible project that is not federally funded. For purposes of this subdivision, an "eligible project" is a project that mitigates or remediates coastal storm damage to the ocean beaches and dune systems of the State.
- (9) One million dollars (\$1,000,000) to the Judicial Department for the replacement of equipment and supplies, contractual services, and additional travel and personnel costs for additional court sessions required as a result of disaster-related courthouse closures.

**SECTION 1.4.** The availability for Hurricane Florence disaster recovery activities in this act is set out below:

**Total Hurricane Florence Disaster Recovery Activities Availability**

<b>as provided in Section 2.1(b) of S.L. 2018-136</b>	<b>\$</b>	<b>849,430,477</b>
<b>Less Appropriations in S.L. 2018-134</b>	<b>\$</b>	<b>56,500,000</b>
<b>Less Appropriations in S.L. 2018-136</b>	<b>\$</b>	<b>398,430,477</b>
<b>Less Additional FY 2018-19 Appropriations</b>	<b>\$</b>	<b>299,800,000</b>
<b>Unappropriated Balance Remaining</b>	<b>\$</b>	<b>94,700,000</b>

**PART II. IMPLEMENTATION OF ACT**

**TRANSFER OF FUNDS TO THE EDUCATION FUND**

**SECTION 2.1.** Notwithstanding any other provision of law to the contrary, from the funds available in the State Public School Fund for the 2018-2019 fiscal year, the Department of Public Instruction may transfer the sum of up to three hundred fifty thousand dollars (\$350,000) from the State Public School Fund to the Education Fund, Budget Code 63501, Fund Code 6116, during the 2018-2019 fiscal year. These funds shall be used solely to support the Florence Aid to Students and Teachers of North Carolina (FAST NC) initiative to assist the State's public schools as students and educators struggle to return to normal following Hurricane Florence and its impact.

**PRINCIPAL ADM HOLD HARMLESS**

**SECTION 2.2.(a)** Notwithstanding Section 8.2 of S.L. 2018-5, for purposes of determining the average daily membership of the school supervised by the principal under the 2018-2019 Principal Annual Salary Schedule, the greater of the average daily membership for the school for (i) the 2017-2018 school year or (ii) the 2018-2019 school year shall be used between January 1, 2019, and June 30, 2019.

**SECTION 2.2.(b)** This act applies only to principals supervising schools that meet both of the following requirements:

- (1) The school is located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
- (2) The school was closed for at least 15 school days during the months of September 2018, October 2018, and November 2018 as a result of Hurricane Florence.

#### **EXPAND USE OF FUNDS – UNIVERSITY REPAIR AND RENOVATION**

**SECTION 2.3.** Notwithstanding any provision of S.L. 2018-136 or the Committee Report described in Section 6.1 of that act to the contrary, the funds provided to The University of North Carolina for repair and renovation of capital facilities damaged by Hurricane Florence on the campuses at Wilmington, Pembroke, and Fayetteville may also be used for temporary facility costs associated with damage caused by Hurricane Florence.

#### **DELAY THE BEGINNING OF PEAK SEASON FOR SOIL TESTING BY THE DEPARTMENT OF AGRICULTURAL AND CONSUMER SERVICES**

**SECTION 2.4.(a)** Notwithstanding G.S. 106-22(17), the beginning date for "peak season" as defined in G.S. 106-22(17) for the year 2018 shall be December 15.

**SECTION 2.4.(b)** This section becomes effective November 30, 2018.

#### **CLARIFY HURRICANE FLORENCE AGRICULTURAL DISASTER PROGRAM**

**SECTION 2.5.(a)** Section 5.11(d) of S.L. 2018-136 reads as rewritten:

**"SECTION 5.11.(d)** To be eligible for financial assistance for losses of agricultural commodities, a person must satisfy all of the following criteria:

- (1) The person experienced a verifiable loss of agricultural commodities as a result of Hurricane Florence, and the person's farm is located in a North Carolina county that is or becomes any of the following:
  - a. Designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
  - b. Included in either a Secretarial Disaster Declaration for Hurricane Florence issued by the United States Secretary of Agriculture or the Presidential Federal Emergency Management Agency Declaration for Hurricane Florence.
- (2) The agricultural commodity was planted but not harvested on or before September 13, 2018, or, for aquaculture commodities, the commodities were being raised on or before September 13, 2018."

**SECTION 2.5.(b)** Section 5.11 of S.L. 2018-136 is amended by adding a new subsection to read:

**"SECTION 5.11.(j1)** The Department shall report the following data to the Fiscal Research Division no later than 30 days following the conclusion of each quarter:

- (1) The number of applicants by type (crops, livestock, nursery).
- (2) The number and amount of awards by type (crops, livestock, nursery).
- (3) The geographic distribution of the awards.
- (4) The reported crop loss by crop type and by county.
- (5) The total amount of funding available to the program, the total amount encumbered, and the total amount disbursed to date.
- (6) Any refunds made to the program pursuant to subsection (k) of this section."

**SECTION 2.5.(c)** This section becomes effective October 16, 2018.

#### **ADDITIONAL AUTHORITY FOR AGRICULTURAL IMPACTS OF HURRICANE MICHAEL**

**SECTION 2.5A.** If a county of the State is included in either a Secretarial Disaster Declaration for Hurricane Michael issued by the United States Secretary of Agriculture or a Presidential Federal Emergency Management Agency Declaration for Hurricane Michael and the Commissioner of Agriculture and Consumer Services determines that funds from the Hurricane Florence Agricultural Disaster Recovery Fund that are allocated to the Hurricane Florence Agricultural Disaster program for 2018 are needed to address the impacts of Hurricane Michael in those counties, the Office of State Budget and Management or their designee shall transfer the needed funds from the Hurricane Florence Agricultural Disaster Recovery Fund to the State Emergency Response and Disaster Relief Fund, and the Department of Agriculture and Consumer Services shall expend those funds for the purposes set forth for the Hurricane Florence Agricultural Disaster Fund in Section 5.11 of S.L. 2018-136. Funds transferred under this section are subject to the reporting requirements set forth in Section 5.11(j1) of S.L. 2018-136.

#### **REPURPOSE STREAM DEBRIS REMOVAL FUNDS**

**SECTION 2.6.** Funds allocated to the Department of Agriculture and Consumer Services by S.L. 2016-124 or S.L. 2017-119 for stream debris removal may be transferred to the Hurricane Florence Disaster Recovery Fund and used to fund removal of stream debris deposited by Hurricane Florence. The Department will track and submit a quarterly report to the Fiscal Research Division on funds transferred under the authority granted by this subsection.

#### **COMMERCIAL FISHING ASSISTANCE**

**SECTION 2.7.(a)** Funds allocated by this act for commercial fishing assistance shall be used to reimburse persons holding a Standard Commercial Fishing License, a Retired Standard Commercial Fishing License, or a North Carolina Resident Shellfish License for all or part of the period from September 1, 2018, through November 30, 2018, for reductions in landings demonstrated from trip data ticket or other verified landing compared with average landings over a prior comparable period determined by the Division.

**SECTION 2.7.(b)** The Division may issue emergency and temporary rules to implement this section and may use up to two and one-half percent (2.5%) of the funds allocated by this subsection for administrative costs, including no more than three temporary positions.

#### **STUDY DERELICT AND ABANDONED VESSELS**

**SECTION 2.8.** The Wildlife Resources Commission shall recommend legislation, including appropriate funding levels, needed (i) to facilitate the identification of owners or other responsible persons for abandoned or derelict vessels for the purpose of requiring those persons to take responsibility for their vessels and (ii) in cases where no responsible owner may be found, to provide the State with the authority to expeditiously remove or otherwise dispose of the abandoned and derelict vessels. In developing its recommendations, the Division shall consult with a technical working group that includes the North Carolina Coastal Federation, the National Oceanic and Atmospheric Administration Marine Debris program, marine salvage industry experts, commercial and recreational boat owners, and other interested stakeholders. The Division shall provide its recommendations no later than March 1, 2019, to the chairs of the House Environment Committee; the House Appropriations, Agriculture and Natural and Economic Resources Committee; the Senate Agriculture/Environment/Natural Resources Committee; the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources; and the Fiscal Research Division.

#### **EXPAND USES FOR CERTAIN WATER RESOURCES FUNDING – HURRICANE MITIGATION**

**SECTION 2.9.** Section 13.9 of S.L. 2018-5 reads as rewritten:

**"SECTION 13.9.(a)** Of the funds appropriated in this act to the Department of Environmental Quality, Division of Water Resources, the sum of five million dollars (\$5,000,000) shall be used to provide a grant-in-aid to Resource Institute, Inc., for the purpose of working with ~~coastal local governments~~ local governments on Topsail Island and engineering firms to ~~explore opportunities for the development and implementation of emerging techniques~~

that can extend the useful life of beach nourishment projects. develop, plan, or implement projects intended to mitigate the impacts of future hurricanes on Topsail Island.

"SECTION 13.9.(b) On or before October 1, 2019, Resource Institute, Inc., shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division. The report shall contain at least all of the following:

(1) A list of participating local governments and engineering firms and other partners in ~~the project~~ projects funded under this section.

(2) A list of projects funded on Topsail Island, including a summary of the costs and the scope of the project.

~~(2)~~(3) A summary of the emerging techniques developed and implemented as a result of the efforts of the collaboration between local governments, engineering firms, and Resource Institute, Inc.

~~(3)~~(4) Documentation of the impact on the resilience of beach nourishment projects and the number of beach nourishment projects assisted."

#### EXPAND INFRASTRUCTURE FUND ELIGIBILITY

SECTION 2.10. Notwithstanding any provision of S.L. 2018-136 or the Committee Report described in Section 6.1 of that act to the contrary, funds provided to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., and used to provide grants to local governments to repair and replace infrastructure, vehicles and equipment, and facilities may be used to provide grants for similar purposes to organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Golden L.E.A.F. may also provide grants to private nonprofit organizations and established religious organizations to repair and replace places of worship damaged or destroyed by flooding caused by Hurricane Florence.

#### JUDICIAL BRANCH DISASTER OPERATIONS

SECTION 2.12.(a) G.S. 7A-64(b) reads as rewritten:

"(b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney supported by ~~facts, that:~~ facts that at least one of the following circumstances apply:

(1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably ~~current;~~ current.

(2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public ~~safety;~~ or safety.

(3) There is a conflict of interest.

(4) A county within the jurisdiction of the requesting district attorney is subject to a disaster declaration by the Governor pursuant to G.S. 166A-19.3(3)."

SECTION 2.12.(b) G.S. 7A-130 reads as rewritten:

"§ 7A-130. **Creation of district court division and district court districts; seats of court.**

(a) The district court division of the General Court of Justice is hereby created. It consists of various district courts organized in territorial districts. The numbers and boundaries of the districts are as provided by G.S. 7A-133. The district court shall sit in the county seat of each county, and at such additional places in each county as the General Assembly may authorize, except that sessions of court are not required at an additional seat of court unless the chief district judge and the Administrative Officer of the Courts concur in a finding that the facilities are adequate.

(b) Notwithstanding subsection (a) of this section, when exigent circumstances exist within a judicial district, sessions of district court may be conducted at a location outside a county seat by order of the chief district court judge of a county, with the prior approval of the location and facilities by the Administrative Officer of the Courts and after consultation with the clerk of superior court and county officials of the county. An order entered under this subsection shall be

1 filed in the office of the clerk of superior court in the county and posted at the courthouse within  
2 the county seat and notice shall be posted in other conspicuous locations."

3 **SECTION 2.12.(c)** G.S. 7A-146 reads as rewritten:

4 **"§ 7A-146. Administrative authority and duties of chief district judge.**

5 The chief district judge, subject to the general supervision of the Chief Justice of the Supreme  
6 Court, has administrative supervision and authority over the operation of the district courts and  
7 magistrates in his district. These powers and duties include, but are not limited to, the following:

8 ...

- 9 (9) Assigning magistrates ~~during an emergency~~ to temporary duty outside the  
10 county of their residence but within that district pursuant to the policies and  
11 procedures prescribed under G.S. 7A-343(11); and, upon the request of a chief  
12 district judge of ~~an adjoining another~~ district and upon the approval of the  
13 Administrative Officer of the Courts, to temporary duty in the district of the  
14 requesting chief district judge pursuant to the policies and procedures  
15 prescribed under G.S. 7A-343(11).

16 ...."

17 **SECTION 2.12.(d)** G.S. 7A-343 reads as rewritten:

18 **"§ 7A-343. Duties of Director.**

19 The Director is the Administrative Officer of the Courts, and the Director's duties include all  
20 of the following:

21 ...

- 22 (11) Prescribe policies and procedures for the assignment and compensation of  
23 magistrates performing temporary duty outside their county of residence  
24 ~~during an emergency~~, as provided for in G.S. 7A-146(9).

25 ...."

26 **REQUIRE DIRECTOR OF THE BUDGET TO DEVELOP PLAN FOR REPLENISHING**  
27 **THE SAVINGS RESERVE**

28 **SECTION 2.13.** The Director of the Budget shall develop a five-year plan beginning  
29 in the 2019-2020 fiscal year for the replenishment of seven hundred fifty-six million five hundred  
30 thousand dollars (\$756,500,000) transferred from the Savings Reserve to the Hurricane Florence  
31 Disaster Recovery Fund. The Director of the Budget shall submit the plan required under this  
32 section by March 1, 2019, to the chairs of the House of Representatives Committee on  
33 Appropriations, the Senate Appropriations/Base Budget Committee, and the Fiscal Research  
34 Division.

35 **REVISE AUDITING REQUIREMENTS FOR HURRICANES MATTHEW AND**  
36 **FLORENCE**

37 **SECTION 2.14.(a)** Section 5.8 of S.L. 2018-136 reads as rewritten:

38 **"SECTION 5.8.(a)** Beginning January 1, 2019, the Office of Recovery and Resiliency  
39 (Office) shall provide separate quarterly reports to the Director of the Budget, the standing  
40 Appropriations Committees of the Senate and the House of Representatives, and the Fiscal  
41 Research Division on the use of State disaster recovery and assistance funds expended from the  
42 Hurricane Florence Recovery ~~Fund~~ Fund and from the State Emergency Response and Disaster  
43 Relief Fund for Hurricane Matthew. The separate reports shall summarize oversight activities  
44 and the results achieved as well as all of the following:

- 45 (1) Expenditures by program and by source of funds.  
46 (2) Expenditures required to receive federal grants.  
47 (3) Federal funding provided to the State to refund certain federally related  
48 spending.  
49 (4) Actual and projected State spending data including time lines and milestones.  
50 (5) State spending data classified by disaster phase to include preparedness,  
51 response, mitigation, and recovery.

- (6) Total State spending data by agency and by program.
- (7) Total State spending by program and county, where practicable.
- (8) Location and job responsibilities of all time-limited State positions created under this act or paid for with federal funds received as a result of Hurricane Florence.

"SECTION 5.8.(b) In addition to the quarterly reports required under subsection (a) of this section and beginning January 1, 2020, the Office shall provide annual reports that compile the information contained in the quarterly reports. The annual reports shall be submitted to the entities required under subsection (a) of this section.

"SECTION 5.8.(c) Each report required by this section shall include information about all funds expended or encumbered pursuant to this act or any other act providing funds to address the impacts of Hurricanes Matthew and Florence as of the date of the report, regardless of which State agency or non-State entity administers the funds. Non-State entities that administer or receive any funds appropriated in this act shall assist and fully cooperate with the Office of Recovery and Resiliency in meeting the Office's obligations under this section."

SECTION 2.14.(b) Section 5.8 of S.L. 2016-124, Section 6 of S.L. 2017-119, and subsection 5.6(g) of S.L. 2018-5 are repealed.

SECTION 2.14.(c) Section 5.19 of S.L. 2018-136 reads as rewritten:

"SECTION 5.19. The State Auditor shall conduct a preliminary financial and performance audit of the Hurricane Florence Disaster Recovery Fund created in Section 3.1 of S.L. 2018-134 (Fund) no later than ~~March 1, 2019~~ October 1, 2019, March 1, 2021, and every two years thereafter. The State Auditor shall conduct additional periodic financial and performance audits of the Fund and a every three years with the first performance audit due no later than March 1, 2020. A final financial and performance audit as requested by the Director of the Budget and the General Assembly shall be conducted once all funds are expended, or by March 1, 2025, whichever first occurs."

### PART III. APPLICABILITY, SCOPE, LIMITATIONS

SECTION 3.1. Unless otherwise provided, Section 1.3 of this act applies to the North Carolina counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.

SECTION 3.2. Sections 4.2, 4.3, 5.18, 5.21, 5.22, 5.23, 5.24, and 6.1 of S.L. 2018-136 apply to this act and are incorporated by reference.

SECTION 3.3. Section 5.24 of S.L. 2018-136 reads as rewritten:

"SECTION 5.24. If a person's home is relocated or purchased with funds from the Hazard Mitigation Grant Program or the State Acquisition and Relocation Fund, the ~~State Emergency Response and Disaster Relief~~ Hurricane Florence Disaster Recovery Fund is subrogated to the person's rights under any insurance coverage for the damage to the home, and any monies received from the insurance coverage shall be paid to the ~~State Emergency Response and Disaster Relief~~ Hurricane Florence Disaster Recovery Fund. The Division of Emergency Management shall ensure that those potentially affected by this section are notified of, and adhere to, its requirements."

### PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law.